

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 12743 of 1998

Between:

Smt.B.Prabhavathamma W/o B.Devendra Reddy
3/513 Sriramulapeta, Proddatur, Cuddapah District

..... PETITIONER

AND

1..The Secretary, Regional Transport Authority,
Cuddapah

2.. APSRTC, rep by its Managing Director,

Musheerabad, Hyderabad.

(R-2 impleaded as per Court order dated 15-4-2005)

.....RESPONDENT

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction ,more particularly one in the nature of Writ of Mandamus declaring the action of the respondent namely Secretary, Regional Transport Authority, Cuddapah for not granting the permit variation by way of extension from Potladurthi to Yerraguntla 4 roads in respect of His existing town service route Proddatur Arts College to Potladurthi as arbitrary, illegal, discriminatory and unjust and pass

Counsel for the Petitioner:MR.I.GOPAL REDDY

Counsel for the Respondent No.: GP FOR TRANSPORT

The Court made the following :

ORDER:

The present writ petition is filed questioning the action of the Secretary, Regional Transport Authority, in not granting the permit variation by way of extension from Potladurthi to Yerraguntla 4 roads in respect of the petitioner's existing town service route Proddatur Arts College to Potladurthi.

As per the averments made in the writ affidavit, the petitioner is holder of pucca stage carriage permit on the town service route Proddatur Arts College to Potladurthy and plying the bus bearing No. AP 03 T 262 on the said route, by paying the taxes regularly. That keeping in view the demand from the traveling public, the petitioner filed an application for extension of route by way of variation of its pucca permit from Potladurthy to yerraguntla 4 roads (via) Bismillabad, hanumangutti and Prakashnagar colony and the same was rejected by the order dated

9-5-1994. Questioning the said rejection, the petitioner filed a revision in R.P.No. 26 of 1994 before the State Transport Appellate Tribunal, A.P. at Hyderabad and the same was allowed by order dated 12-2-1996 with a direction to the Secretary, Road Transport Authority to issue variation permit subject to permission from the Transport Commissioner.

In pursuance of the order dated 12-2-1996, the Transport Commissioner has given permission for variation of existing service route from Proddatur Arts College to Potladurthi, Proddatur Arts College to Yerraguntla 4 roads (via) Bismillabad, Hanumanguthi and Prakashnagar colony vide proceedings dated 29-6-1996.

Questioning the order dated 29-6-1996, the A.P. State Road Transport Corporation, filed W.P. 11704 of 1996 contending that the variation of the route is more than 11.4 Kms. This Court on consideration of the matter, disposed of the said writ petition by order dated 1st August, 1996, the operative portion reads as under:

“..... Sitting in Article 226 Jurisdiction, I cannot decide on which route the 3rd respondent would like to ply the bus. It is suffice, if I give a direction to the Secretary, the Regional Transport Authority to verify the

route map filed by him and also after conducting local inspection in the presence of the officers of the petitioner-corporation, decide the matter afresh. If the contention of the 3rd respondent is correct, he is entitled for extension of the route. The entire exercise has to be done within two weeks from the date of receipt of this order. The writ petition is disposed of accordingly.”

The petitioner, being a party in W.P. 11704 of 1996, instead of pursuing with the Secretary, Regional Transport Authority to implement the above judgment, filed the present writ petition without impleading A.P. State Road Transport Corporation (petitioner in W.P. 11704 of 1996) as a necessary party to the present writ petition and obtained interim orders and operating the route. It is quite surprising to note that though the matter was admitted on 30-4-1998 and interim orders were granted, the respondent has not taken any steps to file a vacate stay petition or a counter affidavit in the matter. Ultimately, the A.P. State Road Transport Corporation, filed an implead petition in W.P.M.P.No. 27505 of 2004 contending that though the A.P. State Road Transport Corporation is party to W.P. 11074 of 1996, the petitioner has deliberately chosen not to make it a necessary party to the present proceedings and obtained interim stay and operating the bus service. It is also stated that the route in question overlaps the notified route and as per the conditions of the scheme the grant of variation in overlapping the notified route for more than 8 Kms is prohibited. It is also contended existence of town service route is a condition precedent for grant of town service permit and the town service route comes into existence only when it is so determined by the concerned R.T.A under Rule 258 (2) of the A.P.M.V.Rules, 1989.

Heard the learned counsel for petitioner, learned Government Pleader for Transport and learned Standing Counsel for A.P.State Road Transport Corporation Mr.K.Srinivasa Rao.

It is to be seen that this Court by order dated 1-8-1996 in W.P.No.11074 of 1996 has directed the primary authority/ Secretary, Regional Transport Authority to conduct a local inspection and to decide the matter afresh within a specified period of two weeks. Thereafter, Division Bench of this Court, in W.P. 9649 of 1998 and batch dated

23-3-2001 passed the following order.

“In view of the directions of the Supreme Court, the applications filed

by the petitioners are restored and the same continue to be pending on the file of the Regional Transport Authority. The petitioners shall file their applications before the Transport Commissioner within a period of two weeks from today. On receipt of such applications, the Transport Commissioner shall consider the same and pass appropriate orders in accordance with the rules within a period of four weeks thereafter. Status quo with regard to the running of the vehicles shall be maintained as obtained on this day, for a period of six weeks subject to the condition of the petitioners paying Motor Vehicle Tax for the entire quarter upto 30-6-2001. It is made clear that no equities with regard to refund of proportionate tax will be entertained in the event of the petitioners coming out unsuccessful before the Transport Commissioner. We further make it clear that as the Transport Commissioner is the only donee of the power and as it is stated that he is constituting committees, which runs contra to the mandate of the statute, the Transport Commissioner alone shall consider and dispose of the applications of the petitioners as directed above.”

Thus, in both the judgments i.e., in W.P.11074 of 1996 and W.P.9649 of 1998, the primary authority was directed to consider the applications on the basis of survey and verification. In view of the same, though the Transport Commissioner, is not a party to the present proceedings, the petitioner is directed to approach the Transport Commissioner within a period of four weeks from today, together with a fresh application for grant of variation permit on the subject route.

On receipt of such an application for grant of variation permit, the Transport Commissioner is directed to issue notice to A.P. State Road Transport Corporation and after considering its objections, pass appropriate orders on the application of the petitioner, in accordance with law.

Subject to above observation, the writ petition stands disposed of. No costs.

N.V.RAMANA,J

15-4-2005

TVK

Note: Registry to mark a copy of this
order to The Transport Commissioner,
Government of A.P., Hyderabad.

Issue copy of this order in one week.

B/o

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1..The Secretary, Regional Transport Authority,
Cuddapah

2) 2 CD copies

*Form-NIC-OGS/WP{**JPK**}*